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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,455	01/27/2004	Hiroyuki Ebinuma	248076US0 8679	
22850	7590 04/07/2006		EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET			GITOMER, RALPH J	
	ALEXANDRIA, VA 22314			PAPER NUMBER
	·		1655	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

· · · · · ·		Application No.	Applicant(s)		
Office Action Summary		10/764,455	EBINUMA ET AL.		
		Examiner	Art Unit		
		Ralph Gitomer	1655		
Period fo	The MAILING DATE of this communication app r Reply	ears on the cover sheet with the c	orrespondence address		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
Status					
 Responsive to communication(s) filed on <u>27 January 2004</u>. This action is FINAL. 2b) ☐ This action is non-final. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213. 					
Dispositi	on of Claims				
5)	Claim(s) 1-10 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed. Claim(s) is/are rejected. Claim(s) is/are objected to. Claim(s) 1-10 are subject to restriction and/or expressions.	vn from consideration.			
Application Papers					
10)	The specification is objected to by the Examine The drawing(s) filed on is/are: a) access applicant may not request that any objection to the Replacement drawing sheet(s) including the correction to the oath or declaration is objected to by the Example 2.	epted or b) objected to by the I drawing(s) be held in abeyance. Sec ion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).		
Priority u	ınder 35 U.S.C. § 119				
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
2) Notice 3) Inform	t(s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Do 5) Notice of Informal F 6) Other:			

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-14, drawn to a method of determining, classified in class 435, subclass 26.
- II. Claims 6-10, drawn to a reagent for determining containing albumin, classified in class 436, subclass 88, see also 530/362+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method could be practiced with reagents other than those of Group II.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ralph Gitomer Primary Examiner Art Unit 1655

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RALPH GITOMER PRIMARY EXAMINER GROUP 1200